

## Message Text

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ACTION PM-07

INFO OCT-01 EA-11 ISO-00 CIAE-00 INR-10 NSAE-00 RSC-01

SCI-06 L-03 DRC-01 /040 W

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R 200538Z JUN 74

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC 3452

INFO DOD/ISA WASHDC

ARPA WASHDC

CINCPAC

C O N F I D E N T I A L CANBERRA 3862

CINCPAC FOR ARPA REP

E.O. 11652: GDS

TAGS: MARR, AS, US

SUBJECT: AGREEMENT FOR PROJECT HI STAR SOUTH: AUSTRALIAN REDRAFT  
OF NOTE ON PROJECT

REF: A) CANBERRA 3496 B) CANBERRA 3494

1. SUMMARY: EMBASSY RECEIVED LETTER JUNE 19 FROM DFA ACTION OFFICER CONCERNED WITH PROJECT HI STAR SOUTH. HIS LETTER SUGGESTS ONE DELETION FROM TEXT OF DRAFT NOTE TRANSMITTED REF A. IT ALSO PROVIDES AN INTERPRETATION OF THE DOUBLE TAXATION AGREEMENTS BETWEEN THE U.S. AND AUSTRALIA FROM THE AUSTRALIAN COMMISSIONER OF TAXATION. APPROPRIATE EXCERPTS FROM THIS LETTER ARE GIVEN BELOW. END SUMMARY.

2. AUSTRALIAN REQUEST FOR DELETION OF ARTICLE B(3)(C):

QTE: AS A RESULT OF A MISUNDERSTANDING BETWEEN INTERESTED AUSTRALIAN AUTHORITIES OUR PROPOSALS INCLUDED AT B(3)(C) A PROVISION SIMILAR TO THE PROVISION IN ARTICLE IX (3) OF THE JDSCS AGREEMENT. WE SHOULD BE GRATEFUL IF YOU WOULD DELETE THAT PROVISION FROM OUR PROPOSALS. WE DO NOT CONSIDER THAT THIS PROVISION IS RELEVANT TO A PROJECT SUCH AS HI STAR SOUTH. THIS  
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TYPE OF PROVISION HAS CAUSED DIFFICULTIES IN THE PAST IN CONNECTION

WITH THE ADMINISTRATION OF REIMBURSING DUTIES AND TAXES (WHICH ARE EXEMPT IN ANY CASE UNDER THE PROVISION OF PARAGRAPHS B(3)(A) AND (B) ). IN VIEW OF THIS PROBLEM AND THE RELATIVE SMALLNESS OF THE HI STAR PROJECT, WE DO NOT BELIEVE THAT THE PROVISION IS APPLICABLE IN THIS CASE. I UNDERSTAND THAT UNITED STATES GOVERNMENT EQUIPMENT FOR THE PROJECT IS ALREADY ENTERING AUSTRALIA FREE OF CUSTOMS DUTY. END QTE

3. COLLECTOR OF TAXATION INTERPRETATION OF DOUBLE TAXATION AGREEMENTS:

QTE FOLLOWING IS ADVICE ON THE POSITION FOR PURPOSES OF AUSTRALIAN TAXES OF UNITED STATES CONTRACTOR PERSONNEL ON THE PROJECT IN THE ABSENCE FROM THE PROPOSED EXCHANGE OF NOTES OF PROVISIONS COMPARABLE TO THOSE INCLUDED IN ARTICLE X OF THE JDSCS AGREEMENT. THE COMMISSIONER OF TAXATION HAS GIVEN THE FOLLOWING ADVICE BASED ON THE UNDERSTANDING THAT THE PERSONS WORKING ON THE PROJECT WOULD BE IN AUSTRALIA FOR LESS THAN 183 DAYS.

QTE THE PROVISIONS OF ARTICLE X OF THE UDSCS AGREEMENT ARE MAINLY RELEVANT TO THE SITUATION OF UNITED STATES CONTRACTOR PERSONNEL ON LONG-TERM PROJECTS IN AUSTRALIA. FOR PROJECT HI STAR SOUTH, IT IS CONFIRMED THAT THE PERSONNEL CONCERNED COULD EXPECT TO BE EXEMPT FROM AUSTRALIAN INCOME TAX ON THE REMUNERATION THEY DERIVE IN AUSTRALIA PURSUANT TO ARTICLE 1X(2) OF THE DOUBLE TAXATION CONVENTION BETWEEN AUSTRALIA AND THE UNITED STATES. SECTION 23(R) OF THE INCOME TAX ASSESSMENT ACT - WHICH EXEMPTS FROM AUSTRALIAN TAX INCOME DERIVED BY A NON-RESIDENT FROM SOURCES OUT OF AUSTRALIA - COULD ALSO BE EXPECTED TO EXEMPT THEIR EX-AUSTRALIAN INCOME.

QTE WITH RESPECT TO AUSTRALIAN ESTATE DUTY, UNITED STATES CONTRACTOR PERSONNEL WHO ARE IN AUSTRALIA ON SHORT TERM PROJECTS SUCH AS HI STAR SOUTH WOULD NOT ACQUIRE AN AUSTRALIAN DOMICILE. LIABILITY FOR ESTATE DUTY COULD ARISE ONLY IN RELATION TO ANY PROPERTY IN AUSTRALIA AND ONLY THEN IF THE VALUE OF THE PROPERTY IN AUSTRALIA EXCEEDED THE EXEMPTION LIMITS. THE EXEMPTION LIMITS ARE \$40,000 WHERE THE WHOLE OF THE ESTATE PASSES TO THE WIDOW, WIDOWER, CHILDREN OR GRANDCHILDREN OF THE DECEASED AND \$20,000 WHERE THE ESTATE PASSES TO PERSONS OTHER THAN THESE

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CLOSE RELATIVES.

QTE LIABILITY TO GIFT DUTY COULD ARISE ONLY IN RELATION TO GIFTS OF PROPERTY SITUATED IN AUSTRALIA AND THEN ONLY IF THE TOTAL GIFTS BY A PERSON IN AN AGGREGATION PERIOD EXCEEDED \$10,000. THE AGGREGATION PERIOD IN RELATION TO ANY GIFTS IS THE PERIOD OF THREE YEARS COMPRISING THE EIGHTEEN MONTHS BEFORE AND EIGHTEEN MONTHS AFTER THE DATE OF THE GIFT. IT SEEMS UNLIKELY IN THESE

CIRCUMSTANCES THAT ANY CONTRACTOR PERSONNEL ENGAGED ON THE HI STAR SOUTH PROJECT WOULD INCUR ANY LIABILITY IN AUSTRALIA TO GIFT DUTY OR TO ESTATE DUTY ON THEIR ESTATES. END QTE

4. EMBASSY COMMENT: WITH REGARD TO SUGGESTED DELETION OF PARA B(3)(C) OF THE AUSTRALIAN DRAFT NOTE, WE UNDERSTAND FROM ARPA REPRESENTATIVE CANBERRA THAT NO TAXES OR DUTIES HAVE BEEN LEVIED ON ANY EQUIPMENT ALREADY IMPORTED INTO AUSTRALIA AND THAT AS PRACTICAL MATTER WE DO NOT EXPECT DUTY OR TAXES TO BE LEVIED BY GOA ON ANY EQUIPMENT BEING BROUGHT IN NOW OR LATER WITH RESPECT TO THE HI STAR PROJECT. IT WOULD APPEAR THAT THERE IS NO NEED FOR PARA B(3)(C) AS SUGGESTED BY THE AUSTRALIAN GOVERNMENT.

5. EMBASSY HAS DISCUSSED TEXT OF LETTER RELATING TO DOUBLE TAXATION AGREEMENTS WITH U.S. INTERNAL REVENUE SERVICE REPRESENTATIVE IN CANBERRA. HE STATES THAT AUSTRALIAN REGULATIONS ARE SIMILAR TO U.S. REGULATIONS ON THESE SUBJECTS WHICH ALSO INCLUDE A MINIMUM AMOUNT BELOW WHICH TAXES ARE NOT LEVIED. INTERNAL REVENUE REP SUGGESTS THAT IF FURTHER INFORMATION AND CLARIFICATION ON THESE DOUBLE TAXATION AGREEMENTS ARE REQUIRED, IT CAN BE OBTAINED FROM THE RESEARCH BRANCH OF THE DIRECTOR OF INTERNATIONAL OPERATIONS OFFICE OF THE INTERNAL REVENUE SERVICE IN WASHINGTON.  
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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 20 JUN 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** BoyleJA  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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**Subject:** AGREEMENT FOR PROJECT HI STAR SOUTH: AUSTRALIAN REDRAFT OF NOTE ON PROJECT  
**TAGS:** MARR, AS, US  
**To:** STATE  
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